

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 611 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

PRAVINBHAI @ GHOGHO KALIDAS PARMAR

Versus

DEPUTY COMMISSIONER OF POLICE

Appearance:

MR NM KAPADIA for Petitioner

MS GAJJAR APP for Respondents.

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 23/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

On 23rd February, 1998, the Deputy Commissioner of Police (Southern Division) Surat City, issued a notice upon the petitioner to show cause why, for the reasons recorded therein, no action be taken against him under

section 56 of the Bombay Police Act, 1951 (hereinafter referred to as 'the Act'), and why he should be ordered to be externed from the limits of Surat (Rural), Bharuch, Navsari and Valsad Districts. Pursuant to the said show cause notice, an order of externment has been made on 2nd April, 1998. The order of externment has been confirmed in appeal on 8th May, 1998. The Externing Authority, while forming an opinion under section 56 of the Act, has referred to the statements given by the witnesses who had suffered on account of the nefarious activities of the petitioner on condition that their names and other particulars shall not be disclosed. The opinion formed on the basis of such statements is clearly not an adequate opinion as envisaged under section 56 of the Act. The courts have time and again held that opinion formed on such information would not be sufficient compliance of the provisions contained in section 56 of the Act (reference can be had to the judgment of the Supreme Court in re NAWABKHAN ABBASKHAN VS STATE OF GUJARAT {AIR 1974, SC 1471, at page-1474}). The order of externment based on such opinion is, therefore, bad and illegal.

Petition is, therefore, allowed. The order of externment dated 2nd April, 1978 (Annexure-C) and the appellate order dated 8th May, 1998 (Annexure-E) to the petition are quashed and set aside. Rule is made absolute.

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JOSHI